CHAPTER 213
HB 619-FN - FINAL VERSION

4Jan2024... 2451h

2024 SESSION

23-0071
02/05

HOUSE BILL ***619-FN***

AN ACT to require a person to attain the age of majority for genital gender reassignment surgery.

SPONSORS: Rep. Roy, Rock. 31; Rep. Spillane, Rock. 2; Rep. McCarter, Belk. 8; Rep. Verville, Rock. 2; Rep. Notter, Hills. 12; Rep. Seidel, Hills. 29; Rep. A. Lekas, Hills. 38; Rep. Love, Rock. 13

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

The bill prohibits gender reassignment surgery for minors under 18 years of age.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT to require a person to attain the age of majority for genital gender reassignment surgery.

Be it Enacted by the Senate and House of Representatives in General Court convened:

213:1 New Chapter; Prohibiting Genital Gender Reassignment Surgery on Minors. Amend RSA by inserting after chapter 332-L the following new chapter:

CHAPTER 332-M

PROHIBITING GENITAL GENDER REASSIGNMENT SURGERY ON MINORS

332-M:1 Purpose.

I. The legislature finds that the following facts and circumstances exist, which make the enactment of this statute necessary for the protection of minors and the furtherance of the public interest:

(a) Physicians have an ethical and legal duty to obtain patients' informed consent before ordering testing and treatment.

(b) Older children and adolescents should be asked to provide their assent for treatment in addition to their parents' permission.

(c) A patient's informed consent requires adequate information, capacity to decide, and absence of coercion.

(d) Best practices urge shared decision making between parent(s) and child and, in general, preferring alternatives that will not foreclose important future choices by the adolescent and the adult the patient will become.

(e) Multivariate analyses of published studies between 2015 and 2022 showed no decrease in suicidality after gender affirming surgery, with some studies showing a significant increase in psychiatric hospitalizations and suicide after surgical transition.

(f) There is a lack of high quality clinical trials which provide data on outcomes for adolescent genital gender reassignment surgeries or young adult genital gender reassignment surgeries, particularly after pubertal suppression and cross sex hormones.

II. Adolescent genital gender reassignment surgery generally lacks both adequate information for informed consent and involves a high risk of coercion for parental consent when parents believe that they are faced with a choice between their child committing suicide or consenting to their child’s genital gender reassignment surgeries.

III. In the absence of high quality data to prove safety and efficacy, including long term outcomes, only people over the age of majority should receive genital gender reassignment surgery in the state of New Hampshire.

332-M:2 Definitions. In this chapter:

I. “Ambiguous genitalia” means a malformation in which a person is not born with clearly male or clearly female external genitalia.

II. “Disorders of sex development” includes:

(a) Forty-six XX chromosomes with or without virilization;

(b) Presence of both ovarian and testicular tissue;

(c) Other abnormal sex chromosome structure;

(d) Abnormal sex steroid hormone production or action; or

(e) Ambiguous genitalia.

III. “Female genitalia” means:

(a) Internal female genitalia which are the ovaries, Fallopian tubes, uterus, cervix and vagina; and

(b) External female genitalia which are the labia minora and majora, also known as the vulva, and the clitoris.

IV. “Genital” and “genitalia” means the male or female reproductive organs, in singular and plural form.

V. “Genital gender reassignment surgery” means surgical procedures in people born without disorders of sex development including but not limited to metoidioplasty, phalloplasty, or vaginoplasty which seek to change genitalia:

(a) From male genitalia to female genitalia;

(b) From female genitalia to male genitalia;

(c) To form a combination of male and female genitalia or absence of genitalia in those born with exclusively male or exclusively female genitalia; or

(d) By removing non-malignant genitalia.

VI. “Male circumcision” means surgery which removes all or a portion of the foreskin covering the glans of the penis, performed for religious, cultural or health reasons.

VII. “Male genitalia” means:

(a) Internal male genitalia which are the testes, epididymis, and vas deferens; and

(b) External male genitalia which are the penis and scrotum.

VIII. “Malignant” means cancerous or otherwise dangerous to the physical health of the person including physiology compromised by infection, lack of blood flow, or physical injury.

IX. "Malformation" means a structural defect in the body due to abnormal embryonic or fetal development.

X. "Metoidioplasty" means a surgery to transform the clitoris into a penis.

XI. “Minor” means a person who has not reached the age of majority.

XII. "Phalloplasty" means the surgical construction of a penis from other parts of the body.

XIII. “Physician” means a person who is licensed to practice medicine in this state under RSA 329.

XIV. "Reconstructive surgery" means surgery to restore normal form and function of tissue after it has been compromised by malformation, infection, trauma, cancer or other physical pathologies.

XV. "Vaginoplasty" means the surgical creation of a vagina from other parts of the body and includes but is not limited to:

(a) Penile inversion vaginoplasty, which is a first-line “gold standard” approach for those with sufficient penile tissue.

(b) Peritoneal vaginoplasty, which is an emerging surgical approach using the membrane that lines the abdominopelvic cavity and surrounds the abdominal organs, for people with insufficient penile tissue including those with a history of puberty blocking medications.

(c) Rectosigmoid vaginoplasty, which uses a section of the sigmoid colon to create the vaginal lining, providing an option for those without sufficient penile tissue or as a revision for failed vaginoplasty.

332-M:3 Prohibition of Genital Gender Reassignment Surgery on Minors.

I. A physician shall not perform genital gender reassignment surgery on minors in the state of New Hampshire.

II. Physicians are not prohibited from performing:

(a) Reconstructive surgeries on the genitalia of minors to correct malformation, malignancy, injury or physical disease;

(b) Removal of malignant, malformed, or otherwise damaged genitalia;

(c) Genital surgeries on minors with disorders of sex development; or

(d) Male circumcision.

332-M:4 Enforcement.

I. Any referral for or provision of genital gender reassignment surgery to an individual under 18 years of age is unprofessional conduct and is subject to discipline by the appropriate licensing entity or disciplinary review board with competent jurisdiction in this state.

II. A minor or the parent of such minor aggrieved by a violation of this chapter may bring an action in the superior court for damages and injunctive relief against any person who has committed or attempted or threatened to commit such violation or any person who has aided or abetted the same.

III.(a) A person shall bring a claim for a violation of this chapter no later than 2 years after the day the cause of action accrues.

(b) An individual under 18 years of age may bring an action during their minority through a parent or next friend, and may bring an action in their own name upon reaching majority at any time from that point until 20 years after reaching the age of majority.

IV. Notwithstanding any other provision of law, an action under this chapter may be commenced, and relief may be granted, in a judicial proceeding without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

V. In any action or proceeding to enforce a provision of this chapter, a prevailing party who establishes a violation of this chapter shall recover reasonable attorneys’ fees.

VI.(a) The attorney general shall have authority to bring suit to enforce compliance with this chapter.

(b) This chapter shall not be construed to deny, impair, or otherwise affect any right or authority of the attorney general, the State of New Hampshire, or any agency, officer, or employee of the state, acting under any law other than this chapter, to institute or intervene in any proceeding.

332-M:5 Severability. Should any part of this chapter be declared invalid the remaining portions shall continue in full force and effect.

213:2 Effective Date. This act shall take effect January 1, 2025.

Approved: July 19, 2024
Effective Date: January 01, 2025